

WATER EFFICIENCY AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: _____

LONG TITLE

General Description:

This bill addresses programs for water efficiency.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for developer incentives to use water efficient landscaping in new residential development;
- ▶ grants rulemaking authority; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

73-10-37.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **73-10-37.5** is enacted to read:

73-10-37.5. Incentives to use water efficient landscaping in new residential



28 **development.**29 (1) As used in this section:30 (a) "Developer" means a person who:31 (i) contracts with a person who is licensed as a contractor or is exempt from licensure
32 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction of a
33 residence that is offered for sale to the public; or34 (ii) is a licensed contractor under Title 58, Chapter 55, Utah Construction Trades
35 Licensing Act, who engages in the construction of a residence that is offered for sale to the
36 public.37 (b) "Developer landscaping incentive program" means a program administered by a
38 district that pays a developer a financial incentive to install water efficient landscaping in a
39 project area.40 (c) "District" means a water conservancy district, as that term is defined in Section
41 [73-10-32](#).42 (d) "Division" means the Division of Water Resources.43 (e) (i) Except as provided in Subsection (1)(e)(ii), "lawn or turf" means nonagricultural
44 land planted in closely mowed, managed grasses.45 (ii) "Lawn or turf" does not include a golf course, park, athletic field, or sod farm.46 (f) "Program guidelines" means guidelines adopted by a district for the district's
47 developer landscaping incentive program.48 (g) "Project area" means the area of residential property in which a developer installs
49 water efficient landscaping.50 (h) "Residential property" means the real property on which one of the following is
51 constructed:52 (i) a single family detached housing; or53 (ii) a multifamily attached housing up to and including a fourplex.54 (2) The division may:55 (a) award a grant under Subsection (3) to a district to fund a financial incentive
56 provided through a developer landscaping incentive program administered by the district; and57 (b) provide an incentive under Subsection (4) in an area without a developer
58 landscaping incentive program to a developer to install water efficient landscaping in a project

59 area that is developed by the developer.

60 (3) (a) (i) A district may obtain a grant from the division to help fund a financial
61 incentive provided to a developer through a developer landscaping incentive program
62 administered by the district.

63 (ii) Both the award and use of a grant under this Subsection (3) are subject to
64 Subsections (3)(b), (c), and (d).

65 (b) To obtain a grant, a district shall:

66 (i) initiate and operate a developer landscaping incentive program;

67 (ii) limit the disbursement of grant money in the district's developer landscaping
68 incentive program to developers that satisfy the minimum requirements of Subsection (4)(c)
69 and:

70 (A) rules made by the division under Subsection (5)(b); or

71 (B) program guidelines approved by the division under Subsection (3)(f);

72 (iii) use the grant exclusively to fund financial incentives provided to a developer that
73 installs water efficient landscaping in a project area in the district's developer landscaping
74 incentive program;

75 (iv) provide an equal amount or more of matching funds for the district's developer
76 landscaping incentive program from sources other than the grant money the district receives
77 under this section;

78 (v) file an application with the division that:

79 (A) describes the district's developer landscaping incentive program, including
80 verification that the developer landscaping incentive program can and shall implement the
81 minimum requirements of Subsection (4)(c) and either rules made by the division under
82 Subsection (5)(b) or program guidelines approved by the division under Subsection (3)(f);

83 (B) includes a copy of the program guidelines governing the district's developer
84 landscaping incentive program;

85 (C) if the district wants to be subject to program guidelines in lieu of division rules
86 made under Subsection (5)(b), requests that the division approve the district's program
87 guidelines under Subsection (3)(f); and

88 (D) provides additional information requested by the division; and

89 (vi) enter into a contract with the division that requires the district to:

90 (A) verify that participants comply and landscaping projects proposed, undertaken, and
91 completed by participants under the district's developer landscaping incentive program satisfy
92 the requirements in this Subsection (3) and any contract before using grant money for a
93 financial incentive;

94 (B) agree not to use grant money for a financial incentive in any landscaping project
95 that fails to satisfy the requirements of this Subsection (3) and either rules made by the division
96 or program guidelines approved by the division under Subsection (3)(f);

97 (C) submit to the division quarterly reports on funding status; and

98 (D) prepare and submit an annual accounting to the division on the use of grant money
99 for financial incentives in the district's developer landscaping incentive program.

100 (c) (i) Upon expenditure of 70% of the grant money awarded to a district and an
101 accounting on the use of that grant money, a district may apply for additional grant money in
102 accordance with Subsection (3)(b).

103 (ii) The division may award a district an additional grant based on:

104 (A) the availability of grant money;

105 (B) the priority or importance of the grant proposal in relation to availability of grant
106 money, the division's developer landscaping incentive program under this Subsection (3), other
107 developer landscaping incentive program grant requests, and regional needs and goals;

108 (C) the effectiveness of the district's developer landscaping incentive program in
109 incentivizing developers to install water efficient landscaping;

110 (D) the district's previous compliance with this Subsection (3) and contract terms and
111 conditions; and

112 (E) any matter bearing on the district's ability to responsibly handle and disperse grant
113 money consistent with this Subsection (3) and contract terms and conditions.

114 (d) A district awarded grant money under this Subsection (3) may not use grant money
115 to pay an incentive that exceeds the maximum amounts established by the division by rule
116 under Subsection (5)(c).

117 (e) Nothing in this section prohibits a district from expending non-grant money,
118 including matching money, under the district's developer landscaping incentive program to:

119 (i) assist a developer that does not satisfy Subsection (4)(c); or

120 (ii) provide an incentive that exceeds a maximum amount established by the division

121 for grant money under Subsection (3)(d).

122 (f) The division may approve a request from a district under Subsection (3)(b)(v)(C) to
123 use program guidelines in lieu of rules made by the division under Subsection (5)(b) if the
124 division determines that the district's program guidelines will:

125 (i) result in at least as much water use savings as rules made under Subsection (5)(b);
126 and

127 (ii) accomplish the same objectives as rules made under Subsection (5)(b).

128 (4) (a) In an area without a developer landscaping incentive program, the division may
129 provide an incentive to a developer to install water efficient landscaping in a project area.

130 (b) If the division provides an incentive under this Subsection (4), the division shall
131 provide the incentive in the order that an application for the incentive is filed. The division
132 may terminate an application if the division determines that the developer has not completed
133 the project within 12 months of the date on which the developer files the application for the
134 incentive.

135 (c) To be eligible for an incentive under this Subsection (4):

136 (i) the developer shall at the time the developer applies for the incentive demonstrate
137 that:

138 (A) the construction on the project area is new;

139 (B) lawn or turf has not been installed on the project area; and

140 (C) water efficient landscaping is to be installed on the project area;

141 (ii) the developer shall agree to:

142 (A) require the owner of the residential property to maintain water efficient
143 landscaping and a drip irrigation system installed in the project area and not install lawn or turf
144 or overhead spray irrigation in the project area after receipt of a payment under this section to
145 incentivize use of water efficient landscaping; or

146 (B) return to the division or to a district the payments received for installation of water
147 efficient landscaping in the project area.

148 (d) A developer may not receive an incentive under this section if the developer has
149 previously received an incentive under this section for the same project area.

150 (e) A developer may not receive an incentive under this Subsection (4) in an amount
151 that exceeds:

152 (i) the maximum amount established by the division in rule, as provided in Subsection
153 (5) for each square foot of water efficient landscaping installed by the developer; or

154 (ii) the maximum aggregate amount established by the division in rule as provided in
155 Subsection (5).

156 (5) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
157 Administrative Rulemaking Act:

158 (a) establishing the process by which:

159 (i) a district obtains a grant under Subsection (3); or

160 (ii) a developer obtains an incentive under Subsection (4);

161 (b) defining what constitutes water efficient landscaping, including what irrigation is
162 used after installation of water efficient landscaping; and

163 (c) establishing for funding under this section, the maximum incentive from grant
164 money allowable for each square foot of installed water efficient landscaping or a maximum
165 aggregate amount, except that the division shall set the maximum incentive to approximate the
166 difference between the costs for installing lawn or turf and overhead spray irrigation as
167 compared to installing water efficient landscaping.

168 **Section 2. Effective date.**

169 This bill takes effect on May 1, 2024.